

Amendments to the Drawings

The attached sheets of drawings include changes to Figs. 1, 12, 13, 18, and 19. These sheets replace the original sheets including Figs. 1, 12, 13, 18, and 19. These figures are amended in response to the Examiner's objection as discussed in the Remarks.

Attachment: Replacement Sheets

Annotated Sheets Showing Changes

REMARKS

At the time of the Office Action dated January 21, 2010, claims 26, 28, 37, 38, 48, 49, 51, and 53-55 were pending in this application.

In this Amendment, claim 26 has been amended, and claims 28, 37, and 38 canceled. Care has been exercised to avoid the introduction of new matter. Claim 26 has been amended to include the limitations of claim 28 and 37. The specification and drawings have also been amended.

Claims 26, 48, 49, 51, and 53-55 are now active in this application, of which claim 26 is independent.

Interview

Applicants acknowledge, with appreciation, Examiner Reichle's courtesy and professionalism in conducting an interview on May 9, 2010, during which the present Amendment was discussed. Applicants believe that at least the objections to the drawings, description, and claims, and the claim rejection under 35 U.S.C. § 112 can be overcome based on the present Amendment.

Drawings

Objection has been made to the drawings. Applicants have amended the drawings in response to the Examiner's comments in paragraph 5 of the Office Action as set forth below.

Comments 1: "in Figure 1, what is the structure at the end of the line from numeral 3?" (paragraph 5 of the Office Action).

The "structure at the end of the line from numeral 3" has been deleted in this Amendment.

Comment 2: “outlines of structure underlying other structure and lines from numerals denoting such structures should be dashed, e.g. the line from 20 and 21 in Figure 12 should be dashed to denote underlying structure” (paragraph 5 of the Office Action).

Figs. 12, 13, 18, and 19 have been amended to change the lines identified by the Examiner to the dashed lines.

Comment 3: “Structure which is the same in various should be shown consistently, e.g. in Figure 12, numerals B22 do not denote the correct portions of the flap” (paragraph 5 of the Office Action).

Fig. 12 has been amended so that numerals B22 denote the correct portions of the flap.

Based on the above, Applicants respectfully solicit withdrawal of the objection to the drawings.

Description

The description stand objected to because of informalities. Applicants have amended the specification in response to the Examiner’s comments in paragraph 7 of the Office Action as set forth below.

Comments 1: “The Summary of the invention section, i.e. a description of the claimed invention, and the invention of the claims should be commensurate in scope, see MPEP 608.01” (paragraph 7 of the Office Action).

Applicants understand that the summary of invention section should be consistent with the subject matter of the claims (see MPEP 608.01(d)). However, as there are outstanding issues under 35 U.S.C. § 112, first and second paragraphs, the claimed subject matter may have to be revised in response to the Examiner’s future response. Accordingly, correction of the summary

of invention section is not ripe at this time. Applicants respectfully request that the Examiner hold the objection regarding the summery of the invention section in abeyance until all the outstanding issues are solved (*see* MPEP 1302.01).

Comments 2: “The textual and pictorial description should be consistent throughout the application at the very least, see, e.g., discussion in paragraph 9 with regard to ‘free edge’, ‘free portion’” (paragraph 7 of the Office Action).

The “free edge” and “free portion” in the specification except those in the “Summary of the Invention” section, have been amended to respond to the Examiner’s objection. Applicants respectfully solicit withdrawal of the objection to the description.

Comments 3: “For another example, with regard to, e.g., claim 54 and paragraph 158 and Figure 12-15 and 17, the Figures show member 60 not superposed on the narrowest portion of the hour glass-shaped core but superposed on lateral portions extending laterally outward therefrom which portions define a widest width of the hour-glass shape....”

Claim 54 and the relevant portion of the description have been amended in response to the Examiner’s objection. Applicants respectfully solicit withdrawal of the objection to the description.

Claim Objections

Objections have been made to claims 26, 28, 37, 48, 49, and 54 because of informalities. Applicants have amended the claims in response to the Examiner’s comments in paragraph 8 of the Office Action as set forth below.

Comments 1: “It is noted that in claim 28, line 3, ‘is fixed to said pervious sheet’ and line 4, ‘is fixed to corresponding said standing portion’ appear to be redundant (Note ‘fixed’ includes direct or indirect fixation).”

The limitations of claim 28, now incorporated into claim 26, has been amended to clarify how portions of the standing portion and portions of the surface-contacting portion are “fixed.”

Comments 2: “In claim 48, line 2, ‘said’ or ‘the’, first, should be deleted.”

Claim 48 has been amended to delete the word “said.”

Comments 3: “In claim 49, line 7, after ‘respectively’, --,-- should be inserted. Also again lines 6 et seq, i.e. ‘fixed to...’, appear to be redundant.”

The relevant limitations have been deleted from claim 49, and thus such amendments are not required.

Comments 4: In claim 54, should ‘by constricting... constricted side portions’ be -- including side portions of the absorbent core which -- (Note also discussion in paragraph 7 supra)?”

Claim 54 has been amended in the manner as discussed in the interview.

Applicants respectfully solicit withdrawal of the objections to the claims.

Claim Rejections—35 U.S.C. §112

Claims 26, 28, 37, 38, 48, 49, 51, and 53-55 have been rejected under 35 U.S.C. §112, second paragraph.

Claims 26 and 28

With respect to claim 26, the Examiner indicated that the limitation “the standing sheet” in line 12 has an antecedent basis issue, and the limitation “free edge” is indefinite.

There is an antecedent basis for the limitation “the standing sheet” in line 12 of claim 26. Claim 26 has been amended for clarification to recite the following limitations (emphasis added):

each of said standing cuffs comprises **a standing sheet** and stretching members provided to **the standing sheet**, wherein

the standing sheet has a proximal edge fixed to a corresponding one of the laterally extended portions of said liquid pervious sheet, said proximal edge defining a base line extending in a direction parallel to a longitudinal centerline of said disposable absorbent article,

Persons skilled in the art would appreciate without any problem that each standing cuff has a standing sheet, and the limitation “the standing sheet” refers to each of standing sheets of the respective standing cuffs. Applicants would stress that the disclosure is directed to one having ordinary skill in the art. *In re Howarth*, 654 F.2d 103, 210 USPQ 689 (CCPA 1981). The limitation “free edge” has been amended to -- distal edge --.

With respect to claim 28, now incorporated in claim 26, the Examiner also indicated that the limitations “the standing portion...” and “the surface contacting portion...” have antecedent basis issues.

During the interview, the Examiner stated that to overcome this rejection, the limitations “fixed to said pervious sheet” and “fixed to corresponding said standing portion” of claim 28. In adding the limitations of claim 28, Applicants have clarified that “the standing portion” and “the surface contacting portion” are directly fixed.

Claim 38

Claim 38 has been cancelled.

Claim 48

During the interview, the Examiner stated that since the claimed disposable absorbent article has a plurality of standing cuffs, it is unclear about which folding back portion of the plurality of standing cuffs claim 22 refers to. In response, as discussed claim 26, persons skilled in the art can understand without any difficulty that the limitation “the folding back portion” in claim 48 refers to respective folding back portions of the standing cuffs, in light of the context of claims 26 and 48, and relevant description of the specification.

Claim 51

The claim has been amended in the manner as discussed in the interview.

Applicants respectfully solicit withdrawal of the rejection of the claims under 35 U.S.C. § 112, second paragraph, and favorable consideration thereof.

Claim Rejections—35 U.S.C. § 102

Claims 26, 28, 37, 38, 48, and 53-55 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Roe et al. (U.S. Patent No. 5,776,121, hereinafter “Roe”).

Applicants submit that Roe does not identically disclose a disposable absorbent article including all the limitations as recited in independent claim 26 which now includes the revised limitations of canceled claims 28 and 37. Specifically, the reference does not disclose, among other things, the following limitations recited in claim 26:

portions of the standing portion locating at respective front and back ends of the disposable absorbent article are directly fixed to the pervious sheet, and portions of the surface-contacting portion locating at the respective front and back ends of the disposable absorbent article are directly fixed to the respective portions of the standing portion, the front and back ends respectively extending in a direction substantially perpendicular to a longitudinal direction of the disposable absorbent article, and

plane-gathering cuffs are respectively provided to the respective laterally extended portions of said liquid pervious sheet, said plane-gathering cuffs outwardly extending from the respective laterally extended portions.

The Examiner indicated that the claimed plane-gathering cuffs are taught by Roe in column 9, lines 29-34 describing that “[i]t should be noted that if the cuff area is elasticized by one or more elastic members to create an elasticized gasketing cuff, then the proximal edge 64 preferably extends upwardly from the elasticized portion of the gasketing cuff in at least the crotch region 26” and column 10, lines 15-17 describing that “[a] second elastic member 84 may also be provided adjacent the longitudinal edge 30 to form a gasketing cuff 80.”

However, the portions cited by the Examiner merely describe addition of elastic members. It is thus apparent that Roe is silent on the claimed plane-gathering cuffs outwardly extending from the respective laterally extended portions in addition to the standing cuffs (claim 26 recites that the standing cuffs comprises a standing sheet and stretching members provided to the standing sheet, and the standing sheet has a proximal edge fixed to a corresponding one of the laterally extended portions of said liquid pervious sheet).

Roe also does not disclose that “portions of the standing portion locating at respective front and back ends of the disposable absorbent article are directly fixed to the pervious sheet, and portions of the surface-contacting portion locating at the respective front and back ends of the disposable absorbent article are directly fixed to the respective portions of the standing portion,” recited in claim 26 (emphasis added). Figs. 1 and 4 of Roe do not explicitly show such limitations.

Based on the foregoing, Roe does not identically disclose a disposable absorbent article including all the limitations as recited in independent claim 26. Dependent claims 48, and 53-55 are also patentably distinguishable over Roe at least because these claims respectively include all

the limitations recited in independent claim 26. Applicants, therefore, respectfully solicit withdrawal of the rejection of the claims and favorable consideration thereof.

Claim Rejections—35 U.S.C. § 103

Claims 49 and 51 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Roe.

Claims 49 and 51 depend on independent claim 26. Applicants thus incorporate herein the arguments made in response to the rejection of independent claim 26 under 35 U.S.C. § 102 as evidenced by Roe. The Examiner's additional comments do not cure the deficiencies of Roe. Applicants, therefore, respectfully solicit withdrawal of the rejection of the claims and favorable consideration thereof.

Conclusion

In view of the above remarks, Applicants submit that this application should be allowed and the case passed to issue. If there are any questions regarding this Amendment or the application in general, a telephone call to the undersigned would be appreciated to expedite the prosecution of the application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper,

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including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

A handwritten signature in black ink, appearing to read 'Tomoki Tanida', is written over the printed name and registration number.

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